

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814



December 17, 1985

ALL-COUNTY LETTER NO. 85-125

TO: ALL COUNTY WELFARE DIRECTORS

SUBJECT: DEPENDENT ADULT ABUSE REPORTING

Assembly Bill (AB) 238 (Chapter 1164, Statutes of 1985) and Assembly Bill 1603 (Chapter 1120, Statutes of 1985) were signed into law by the Governor in September 1985. AB 238 is an urgency measure which took effect immediately upon signature, and AB 1603 becomes effective January 1, 1986. The bills significantly revise dependent adult abuse reporting definitions and requirements. The major change is the designation of certain professions, organizations and their employees as mandated reporters of physical abuse of dependent adults (WIC 15630).

Under these bills, the number of mandated reporters is extremely large. AB 238 also mandates a specific documentation process for notifying mandated reporters of their responsibilities (WIC 15632). The statute is very specific as to what the notification must contain; who must be notified; and who is responsible for the printing, distribution, and filing of notification statements. Consequently, the Department considers this portion of the bill self-implementing and will not be issuing forms or regulations. The Department is in the process of notifying the Departments of Aging, Education, Developmental Services, Mental Health Services, Justice and Health Services of the bill's requirements so that they can notify their appropriate agencies. We strongly recommend that County Welfare Departments notify their own affected staff as soon as possible, and request that they contact local organizations which they have previously notified of adult abuse reporting requirements and other agencies as needed.

The bills require the Department of Social Services and the Department of Justice to initiate the development of guidelines on investigations of abuse allegations (WIC 15640). The Department is in the process of developing a plan to implement these requirements which will include participation by county welfare departments.

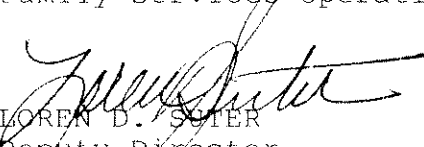
The enactment of these bills, as well as previously identified needs for more specific adult abuse characteristics data, has resulted in a need for revision of abuse reporting forms. The Department, with the assistance of the Adult Services Committee of

the County Welfare Directors Association, has initiated the revision of reporting forms. Pending completion of revisions, existing forms should continue to be used.

In addition to the items noted above, other major provisions of the bills include:

1. Makes changes and additions to abuse definitions. (WIC 15610)
2. Requirements for cross reporting of abuse allegations between social services and law enforcement agencies. [WIC 15630(e)]
3. Specification of the type of information which must be obtained when receiving an abuse report by telephone. [WIC 15633(a)]
4. Specification of the circumstances under which agencies may share information related to abuse investigations. (WIC 15633(c)(d), 15633.5)
5. Extension of the life of statutory dependent adult abuse reporting requirements from January 1, 1986 to January 1, 1990. (WIC 15602)
6. Requires notification to the licensing agency by the county elder protective agency when there is a report of abuse of an elder or dependent adult who resides in a community care facility. [WIC 9383(b)]

We have attached a copy of both bills and a separate listing of mandated reporters from the bills for your information and review. If you have any questions, please contact your county Adult and Family Services Operations Consultant at (916) 445-0623.


LOREN D. SOTER
Deputy Director
Adult and Family Services Division

Attachments

cc: CWDA

MANDATED REPORTERS OF PHYSICAL ABUSE OF DEPENDENT ADULTS
(AB 238 and AB 1603)

ANY DEPENDENT ADULT CARE CUSTODIAN, HEALTH PRACTITIONER, OR
EMPLOYEE OF A COUNTY ADULT PROTECTIVE SERVICES AGENCY* OR A
LOCAL LAW ENFORCEMENT AGENCY.

"Care Custodian" is defined as an administrator or an employee of any of the following public or private facilities:

Health facility	Public assistance worker
Clinic	Adult protective services agency
Home health agency	Patient's rights advocate
Educational institution	Nursing home ombudsman
Sheltered workshop	Legal guardian or conservator
Camp	Skilled nursing facility
Respite care facility	Intermediate care facility
Residential center for persons with developmental disabilities	Local law enforcement agency
Licensing worker or evaluator	Any other person who provides goods or services necessary to avoid physical harm or mental suffering and who perform duties

(WIC Section 15610(g), AB 238, WIC Section 15610(h), AB 1603)

"Health Practitioner" means:

Physician and surgeon	marriage, family and child counselor or any other person licensed under Division 2 (commencing with Section 1797) of the Health and Safety Code
Psychologist	State or county public health or social service employee who treats a dependent adult for any condition
Resident intern	Coroner
Chiropractor	Religious practitioner who diagnoses, examines or treats dependent adults
Dental hygienist	
Psychiatrist	
Dentist	
Podiatrist	
Licensed nurse	
Paramedic	
marriage, family and child counselor trainee or unlicensed intern as defined in subdivision (c) of Section 4980.03 and Section 4980.44 respectively of the Business and Professions Code.	

(WIC Section 15610(h), AB 238 and AB 1603)

*"Adult protective services agency" means a county welfare or social services department. (WIC Section 15610(i), AB 238 and AB 1603)

CHAPTER 1120

An act to amend Sections 9380, 9383, 15600, and 15602 of, and to amend, repeal, and add Section 15630 of, to add Section 9387 to, to repeal and add Section 15610 of, and to add Article 5 (commencing with Section 15640) to Chapter 11 of Part 3 of Division 9 of, the Welfare and Institutions Code, relating to dependent adult and elder abuse.

[Approved by Governor September 28, 1985. Filed with Secretary of State September 28, 1985.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1603, Agnos. Dependent adult and elder abuse.

Existing law contains various provisions relating to abuse of dependent adults, as defined. These provisions would be repealed on January 1, 1986.

This bill would instead provide that these provisions would be repealed on January 1, 1990.

Under existing law, any person witnessing or suspecting that a dependent adult is being or has been subject to abuse may report suspected cases to the county adult protective services agency.

Existing law also requires specified individuals to submit reports of suspected elder abuse to county adult protective services agencies under certain circumstances, and permits all other individuals to file these reports.

The bill would modify existing provisions relating to the submission of reports to county adult protective services agencies of elder or dependent adult abuse, with certain of these modifications to be operative only if AB 238 is enacted during the 1985 portion of the 1985-86 Regular Session.

The bill would require the State Department of Social Services, in cooperation with representatives of county government, and in consultation with specified entities to establish minimum guidelines for a county adult protective service agency to determine when an investigation of an allegation of elder or dependent adult abuse is warranted.

The bill would also require the Department of Justice, in consultation with specified entities, to develop uniform guidelines for local law enforcement assistance with investigations of allegations of elder or dependent adult abuse conducted by county adult protective service agencies.

The State Department of Social Services and the Department of Justice would be required to report to the Joint Legislative Budget Committee by January 1, 1988, on the fiscal and programmatic impact of the guidelines developed by the respective agencies.

Since the bill extends provisions permitting individuals to report to each county on dependent adult abuse, the bill would create a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates which do not exceed \$500,000 statewide and other procedures for claims whose statewide costs exceed \$500,000.

This bill would provide that reimbursement for costs mandated by the bill shall be made pursuant to those statutory procedures and, if the statewide cost does not exceed \$500,000, shall be payable from the State Mandates Claims Fund.

The people of the State of California do enact as follows:

SECTION 1. Section 9380 of the Welfare and Institutions Code is amended to read:

9380. The Legislature finds and declares all of the following:

(a) Elders may be subjected to abuse, neglect, or abandonment, and that this state has a responsibility to protect these persons.

(b) Special attention should be directed to the needs and problems of the elderly, recognizing that these persons constitute a significant and identifiable segment of the population and that they are more subject to risks of abuse, neglect, and abandonment.

(c) Most elders who are at the greatest risk of abuse, neglect, and abandonment by their family or caretakers suffer physical impairments and other poor health that place them in a dependent and vulnerable position.

(d) Factors which contribute to abuse, neglect, and abandonment of elders are economic instability of the family, resentment of caretaker responsibilities, stress on the caretaker, and abuse by the caretaker of drugs or alcohol.

(e) This state shall foster and promote community services for the economic, social, and personal well-being of its citizens, in order to protect those persons described in this section.

(f) Uniform state guidelines which specify when county adult protective service agencies are to investigate allegations of abuse to elders and the appropriate role of local law enforcement do not currently exist and the implementation of these guidelines is necessary in order to ensure that a minimum level of protection is provided to elders in each county.

Therefore, it is the intent of the Legislature in enacting this chapter to provide, in those instances where a county has designated an elder abuse reporting agency, that that agency shall receive referrals or complaints from public or private agencies, from any mandated reporter submitting reports pursuant to Section 9381, or

from any other source having reasonable cause to know that the welfare of an elder is endangered, and shall take any actions as are considered necessary to protect the elder and correct the situation and ensure the individual's safety.

As used in this chapter:

- (a) "Elder" means a person 65 years of age or older.
- (b) "Elder abuse" means any one or more of the following acts which are inflicted by other than accidental means on an elder by another person: physical abuse, fiduciary abuse, neglect, or abandonment.
- (c) "Physical abuse" means a situation where any person who has the care or custody of, or who stands in a position of trust with, an elder, willfully inflicts upon that elder any cruel or inhuman corporal punishment or injury. Physical abuse includes, but is not limited to, direct beatings, sexual assault, unreasonable physical constraint, or prolonged deprivation of food or water.
- (d) "Fiduciary abuse" means a situation where any person who stands in a position of trust with respect to an elder, willfully steals the money or property of that elder, or secretes or appropriates the money or property of that elder, to any use or purpose not in the due and lawful execution of his or her trust.
- (e) "Neglect" means the negligent failure of any person having the care or custody of an elder to exercise that degree of care which a reasonable person in a like position would exercise. Neglect includes, but is not limited to:
 - (1) Failure to assist in personal hygiene, or in the provision of food, and clothing for an elder.
 - (2) Failure to provide the medical care for the physical and mental health needs of an elder. No person shall be deemed neglected or abused for the sole reason that he or she voluntarily relies on treatment by spiritual means through prayer alone in lieu of medical treatment.
 - (3) Failure to protect an elder from health and safety hazards.
 - (4) Failure to prevent an elder from suffering malnutrition.
- (f) "Abandonment" means the desertion or willful forsaking of an elder person by any person having the care or custody of that elder under circumstances in which a reasonable person would continue to provide care or custody.
- (g) "Elder care custodian" means an administrator of a community care or health care facility licensed to care for the elderly, a public assistance worker, a probation officer, a social worker, a licensed home aide, or an employee of an elder care institution, including personnel of residential care facilities, skilled nursing facilities, and intermediate care facilities.
- (h) "Medical practitioner" means a physician and surgeon, psychiatrist, psychologist, dentist, osteopath, podiatrist, chiropractor, resident, intern, nurse, pharmacist, or any other person who is currently licensed under Division 2 (commencing with Section 500)

of the Business and Professions Code.

(i) "Nonmedical practitioner" means a state or county public health employee who treats an elder for any condition, a paramedic, a coroner, a geriatric or family counselor, or a lawyer.

(j) "Elder protective agency" means the State Department of Social Services, a county probation department, a county welfare department, a police or sheriff's department, or a nursing home ombudsman.

(k) "Adult protective services" means those preventive and remedial activities performed on behalf of elders who are unable to protect their own interests, harmed or threatened with harm, caused physical or mental injury due to the action or inaction of another person or their own action due to ignorance, illiteracy, incompetence, or poor health, lacking in adequate food, shelter, or clothing, exploited of their income and resources, or deprived of entitlement due them.

SEC. 2. Section 9383 of the Welfare and Institutions Code is amended to read:

9383. (a) If a telephone report made pursuant to subdivision (a) of Section 9381 is received by an elder protective agency other than the appropriate law enforcement agency, the receiving agency shall relay the information to the law enforcement agency by telephone as soon as possible.

(b) When an elder protective agency receives a report of abuse, neglect or abandonment of an elder or dependent adult who resides in a community care facility, that elder protective agency shall report the incident to the licensing agency by telephone as soon as possible.

(c) An elder abuse victim may refuse or withdraw consent at any time to an investigation or the provision of protective services by an elder abuse agency. The agency shall act only with the consent of the victim unless a violation of the Penal Code has been alleged.

(d) If the elder abuse victim is so incapacitated that he or she cannot legally give or deny consent to protective services, a petition for temporary conservatorship or guardianship may be initiated in accordance with Section 2250 of the Probate Code.

SEC. 3. Section 9387 is added to the Welfare and Institutions Code, to read:

9387. The department, in cooperation with representatives of county government, and in consultation with the State Department of Education, the State Department of Developmental Services, and the Department of Justice, shall establish minimum guidelines for determining when investigation of an allegation of abuse is warranted.

The State Department of Social Services shall report to the Joint Legislative Budget Committee by January 1, 1988, on the fiscal and programmatic impacts of these guidelines on county adult protective service agencies.

SEC. 4. Section 15600 of the Welfare and Institutions Code is amended to read:

15600. (a) The Legislature recognizes that dependent adults may be subjected to abuse, neglect, or abandonment and that this state has a responsibility to protect such persons.

(b) The Legislature further recognizes that a significant number of these persons are elderly. The Legislature desires to direct special attention to the needs and problems of the elderly, recognizing that these persons constitute a significant and identifiable segment of the population and that they are more subject to risks of abuse, neglect, and abandonment.

(c) The Legislature further recognizes that a significant number of these persons are developmentally disabled. Mental and verbal limitations often leave them vulnerable to abuse and incapable of asking for help and protection.

(d) Most elders and dependent adults who are at the greatest risk of abuse, neglect, and abandonment by their family or caretakers suffer physical impairments and other poor health that place them in a dependent and vulnerable position.

(e) Factors which contribute to abuse, neglect, and abandonment of elders and dependent adults are economic instability of the family, resentment of caretaker responsibilities, stress on the caretaker, and abuse by the caretaker of drugs or alcohol.

(f) The Legislature declares that this state shall foster and promote community services for the economic, social, and personal well-being of its citizens in order to protect those persons described in this section.

(g) Uniform state guidelines which specify when county adult protective service agencies are to investigate allegations of abuse to elders and dependent adults and the appropriate role of local law enforcement do not currently exist and the implementation of these guidelines is necessary in order to ensure that a minimum level of protection is provided to elders and dependent adults in each county.

(h) Therefore, it is the intent of the Legislature in enacting this chapter to provide, in those instances where a county has designated an elder or dependent adult abuse reporting agency, that that agency shall receive referrals or complaints from public or private agencies, from any mandated reporter submitting reports pursuant to Section 9381, or from any other source having reasonable cause to know that the welfare of an elder or dependent adult is endangered, and shall take such actions as are considered necessary to protect the elder or dependent adult and correct the situation and ensure the individual's safety.

SEC. 5. Section 15602 of the Welfare and Institutions Code is amended to read:

15602. This chapter shall remain in effect only until January 1, 1990, and on that date is repealed unless a later enacted statute,

which is chaptered before that date, deletes or extends that date.

SEC. 6. Section 15610 of the Welfare and Institutions Code is repealed.

SEC. 7. Section 15610 is added to the Welfare and Institutions Code, to read:

15610. As used in this chapter:

(a) "Dependent adult" means any person residing in this state, between the ages of 18 and 64, who has physical or mental limitations which restrict his or her ability to carry out normal activities or to protect his or her rights including, but not limited to, persons who have physical or developmental disabilities or whose physical or mental abilities have diminished because of age.

(b) "Physical abuse" means any of the following:

(1) Battery, as defined in Section 242 of the Penal Code.

(2) Unreasonable physical constraint, or prolonged or continual deprivation of food or water.

(3) Sexual assault.

(c) "Sexual assault" means conduct in violation of one or more of the following sections:

(1) Sexual battery, as defined in Section 243.4 of the Penal Code.

(2) Rape, as defined in Section 261 of the Penal Code.

(3) Rape in concert, as defined in Section 264.1 of the Penal Code.

(4) Incest, as defined in Section 285 of the Penal Code.

(5) Sodomy, as defined in Section 286 of the Penal Code.

(6) Oral copulation, as defined in Section 288a of the Penal Code.

(7) Penetration of a genital or anal opening by a foreign object, as defined in Section 289 of the Penal Code.

(d) "Neglect" means the negligent failure of any person having the care or custody of a dependent adult to exercise that degree of care which a reasonable person in a like position would exercise. Neglect includes, but is not limited to all of the following:

(1) Failure to assist in personal hygiene, or in the provision of food or clothing.

(2) Failure to provide medical care for physical and mental health needs. No person shall be deemed neglected or abused for the sole reason that he or she voluntarily relies on treatment by spiritual means through prayer alone in lieu of medical treatment.

(3) Failure to protect from health and safety hazards.

(4) Failure to prevent malnutrition.

(e) "Abandonment" means the desertion or willful forsaking of a dependent adult by anyone having care or custody of that person under circumstances in which a reasonable person would continue to provide care and custody.

(f) "Fiduciary abuse" means a situation in which any person who has the care or custody of, or who stands in a position of trust to, a dependent adult, takes, secretes, or appropriates their money or property, to any use or purpose not in the due and lawful execution of his or her trust.

(g) "Abuse of a dependent adult" means physical abuse, sexual abuse, neglect, intimidation, cruel punishment, fiduciary abuse, or other treatment with resulting physical harm or pain or mental suffering, or the deprivation by a care custodian of goods or services which are necessary to avoid physical harm or mental suffering.

(h) "Care custodian" means an administrator or an employee of any of the following public or private facilities:

- (1) Health facility.
- (2) Clinic.
- (3) Home health agency.
- (4) Educational institution.
- (5) Sheltered workshop.
- (6) Camp.
- (7) Respite care facility.
- (8) Residential care institution, including foster homes and group homes.
- (9) Community care facility.
- (10) Adult day care facility, including adult day health care facilities.
- (11) Regional center for persons with developmental disabilities.
- (12) Licensing worker or evaluator.
- (13) Public assistance worker.
- (14) Adult protective services agency.
- (15) Patient's rights advocate.
- (16) Nursing home ombudsman.
- (17) Legal guardian or conservator.
- (18) Skilled nursing facility.
- (19) Intermediate care facility.
- (20) Local law enforcement agency.
- (21) Any other person who provides goods or services necessary to avoid physical harm or mental suffering and who performs duties.

(i) "Health practitioner" means a physician and surgeon, psychiatrist, psychologist, dentist, resident, intern, podiatrist, chiropractor, licensed nurse, dental hygienist, marriage, family, and child counselor, or any other person who is currently licensed under Division 2 (commencing with Section 500) of the Business and Professions Code, any emergency medical technician I or II, paramedic, a person certified pursuant to Division 2.5 (commencing with Section 1797) of the Health and Safety Code, a psychological assistant registered pursuant to Section 2913 of the Business and Professions Code, a marriage, family and child counselor trainee, as defined in subdivision (c) of Section 4980.03 of the Business and Professions Code, or an unlicensed marriage, family and child counselor intern registered under Section 4980.44 of the Business and Professions Code, state or county public health or social service employee who treats a dependent adult for any condition, a coroner, or a religious practitioner who diagnoses, examines or treats dependent adults.

(j) "Adult protective services agency" means a county welfare or social services department.

(k) "Adult protective services" means those preventive and remedial activities performed on behalf of dependent adults who are unable to protect their own interests; harmed or threatened with harm; caused physical or mental injury due to the action or inaction of another person or their own action due to ignorance, illiteracy, incompetence, mental limitation or poor health; lacking in adequate food, shelter, or clothing; exploited of their income and resources; or deprived of entitlement due them.

(l) "Goods and services which are necessary to avoid physical harm or mental suffering" include, but are not limited to, all of the following:

(1) The provision of medical care for physical and mental health needs.

(2) Assistance in personal hygiene.

(3) Possessing adequate clothing.

(4) Adequately heated and ventilated shelter.

(5) Protection from health and safety hazards.

(6) Protection from malnutrition, under those circumstances where the results include, but are not limited to, malnutrition and deprivation of necessities or physical punishment.

(7) Transportation and assistance necessary to secure any of the needs set forth in paragraphs (1) to (6) above.

No person shall be deemed neglected or abused for the sole reason that he or she voluntarily relies on treatment by spiritual means through prayer alone in lieu of medical treatment.

(m) "Investigation" means that activity necessary to determine the validity of a report of elder or dependent adult abuse, neglect, or abandonment.

(n) "Nursing home ombudsman" means the long-term care ombudsman of the Department of Aging, the ombudsman coordinators of that department, and the persons acting in the capacity of regional ombudsman on behalf of approved organizations as described in Chapter 9 (commencing with Section 9700) of Division 8.5.

(o) "Developmentally disabled person" means a person with a developmental disability specified by or as described in subdivision (a) of Section 4512.

(p) "Mental suffering" means deliberately subjecting a person to fear, agitation, confusion, severe depression, or other forms of serious emotional distress, through threats, harassment, or other forms of intimidating behavior.

(q) "Patient's rights advocate" means a person who has no direct or indirect clinical or administrative responsibility for the patient, and who shall be responsible for ensuring that laws, regulations, and policies on the rights of the patient are observed.

(r) "Local law enforcement agency" means a city police or county

sheriff's department, or a county probation department.

SEC. 8. Section 15630 of the Welfare and Institutions Code is amended to read:

15630. Any person witnessing or suspecting that a dependent adult is being or has been subject to abuse may report suspected cases to the county adult protective services agency.

Any person reporting under this article is immune from civil or criminal liability due to, or arising out of failure to file a report. Any person who reports under this section is also immune from civil or criminal liability, unless such person acted in bad faith or with a malicious purpose.

No employee shall be discharged, suspended, disciplined, or harassed for making a report pursuant to this article.

When a county adult protective services agency receives a report of abuse, neglect or abandonment of an elder or dependent adult who resides in a community care facility, that county adult protective services agency shall report the incident to the licensing agency by telephone as soon as possible.

SEC. 9. Section 15630 of the Welfare and Institutions Code is repealed.

SEC. 10. Section 15630 is added to the Welfare and Institutions Code, to read:

15630. (a) Any dependent adult care custodian, health practitioner, or employee of a county adult protective services agency or a local law enforcement agency, who in his or her professional capacity or within the scope of his or her employment, either has actual knowledge that a dependent adult has been the victim of physical abuse, or observes a physical injury to a dependent adult under circumstances that are consistent with physical abuse, where the dependent adult's statements, or in the case of persons who have developmental disabilities, their statements or other corroborating evidence, indicate that abuse has occurred, shall report the known or suspected instance of physical abuse to the county adult protective services agency, or a local law enforcement agency immediately or as soon as possible by telephone, and shall prepare and send a written report thereof within 36 hours.

(b) Any care custodian, health practitioner, or employee of an adult protective services agency or local law enforcement agency who has knowledge of or reasonably suspects that dependent adult abuse has been inflicted upon a dependent adult or that his or her emotional well-being is endangered in any other way, may report such known or suspected instance of abuse to an adult protective services agency or local law enforcement agency.

(c) When two or more persons who are required to report are present and jointly have knowledge of a known or suspected instance of abuse of a dependent adult, and when there is agreement among them, the telephone report may be made by a member of the team selected by mutual agreement and a single report may be made and

signed by the selected member of the reporting team. Any member who has knowledge that the member designated to report has failed to do so shall thereafter make the report.

(d) The reporting duties under this section are individual, and, no supervisor or administrator may impede or inhibit the reporting duties and no person making such a report shall be subject to any sanction for making the report. However, internal procedures to facilitate reporting and apprise supervisors and administrators of reports may be established, provided they are not inconsistent with the provisions of this chapter.

(e) An adult protective services agency shall immediately or as soon as practically possible report by telephone to the law enforcement agency having jurisdiction over the case and to any public agency given responsibility for investigation in that jurisdiction of cases of dependent adult abuse, every known or suspected instance of dependent adult abuse. A county probation or welfare department shall also send a written report thereof within 36 hours of receiving the information concerning the incident to each agency to which it is required to make a telephone report under this subdivision.

A law enforcement agency shall immediately or as soon as practically possible report by telephone to the county welfare department and the agency given responsibility for the investigation of cases of dependent adult abuse every known or suspected instance of abuse of a dependent adult. A law enforcement agency shall also send a written report thereof within 36 hours of receiving the information concerning the incident to any agency to which it is required to make a telephone report under this subdivision.

(f) When a county adult protective services agency receives a report of abuse, neglect or abandonment of an elder or dependent adult who resides in a community care facility, that county adult protective services agency shall report the incident to the licensing agency by telephone as soon as possible.

SEC. 11. Article 5 (commencing with Section 15640) is added to Chapter 11 of Part 3 of Division 9 of the Welfare and Institutions Code, to read:

Article 5. Investigation of Reports of Elder and Dependent
Adult Abuse and Neglect

15640. The department, in cooperation with representatives of county government, and in consultation with the State Department of Education, the State Department of Developmental Services, and the Department of Justice, shall establish minimum guidelines for determining when an investigation of an allegation of abuse is warranted. The department shall report to the Joint Legislative Budget Committee by January 1, 1988, on the fiscal and programmatic impact of these guidelines on county adult protective

service agencies.

The Department of Justice, in consultation with the department, the State Department of Education, the State Department of Developmental Services and representatives of local law enforcement and county adult protective service agencies, shall develop uniform guidelines for local law enforcement assistance with investigations of allegations of abuse to elders and dependent adults conducted by county adult protective service agencies. Consistent with these guidelines, county adult protective service agencies may seek local law enforcement assistance with investigations of allegations of abuse to elders and dependent adults.

The Department of Justice shall report to the Joint Legislative Budget Committee by January 1, 1988, on the fiscal and programmatic impacts of these guidelines on local law enforcement agencies.

SEC. 12. Reimbursement to local agencies and school districts for costs mandated by the state pursuant to this act shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code and, if the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars (\$500,000), shall be made from the State Mandates Claims Fund.

SEC. 13. (a) Section 8 of this act shall only become operative if AB 238 is not enacted during the 1985 portion of the 1985-86 Regular Session.

(b) Sections 9 and 10 of this act shall only become operative if AB 238 is enacted during the 1985 portion of the 1985-86 Regular Session.

O

Assembly Bill No. 238

CHAPTER 1164

An act to amend Sections 15600 and 15602 of, to add Sections 15632, 15633, 15633.5, 15634, 15635, 15637, and 15640 to, and to repeal and add Sections 15610, 15630, and 15631 of, the Welfare and Institutions Code, relating to dependent adults, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1985. Filed with Secretary of State September 28, 1985.]

LEGISLATIVE COUNSEL'S DIGEST

AB 238, Papan. Dependent adult abuse reporting.

Existing law contains various provisions relating to reporting, and the receipt of reports, of abuse of dependent adults, as defined. These provisions would be repealed on January 1, 1986.

This bill would instead provide that these provisions would be repealed on January 1, 1990.

Existing law provides that any person witnessing or suspecting that a dependent adult is the subject of abuse may report the suspected case to the county adult protective services agency, and provides immunity from civil or criminal liability arising therefrom. It also authorizes the county board of supervisors to designate a voluntary private nonprofit agency to receive reports of elderly and dependent adult abuse. It requires each county adult protective agency to maintain an inventory of agencies available to assist abuse victims.

This bill would repeal certain of these provisions. It would instead require any care custodian, health practitioner, or employee of an adult protective services agency or a local law enforcement agency, under specified circumstances to report a known or suspected instance of physical abuse of a dependent adult to an adult protective agency. It would authorize any other person, under specified circumstances, as well as, insofar as other types of abuse are concerned, those persons required to report instances of physical abuse, to report the known or suspected instance of abuse to an adult protective services agency or a local law enforcement agency.

This bill would require any person who enters into employment on and after January 1, 1986, as a care custodian, health practitioner, or with an adult protective services agency or a local law enforcement agency, and any person who was employed prior to January 1, 1986, and continues to be employed after January 1, 1986, as a care custodian, health practitioner, or with an adult protective services agency or a local law enforcement agency, as a condition of continued employment, to sign a specified statement to the effect that he or she has knowledge of, and will comply with, specified provisions of this bill.

This bill would make the reporting of cases of dependent adult abuse confidential. It would impose a state-mandated local program by making a violation of the confidentiality a misdemeanor. It would authorize disclosure of reports of dependent adult abuse to specified persons or agencies.

This bill would provide that no care custodian, health practitioner, or employee of an adult protective agency who reports a case of dependent adult abuse shall be civilly or criminally liable for any such report. It would provide similar immunity for any other person reporting a case of dependent adult abuse except if a false report was filed with the knowledge that it was false.

This bill would authorize a care custodian, health practitioner, or an employee of an adult protective agency to present a claim to the State Board of Control for reasonable attorneys' fees incurred in any action against that person on the basis of making a report required or authorized by this bill.

The bill would also redefine various terms related to the reporting of dependent adult abuse.

This bill would impose a state-mandated local program by imposing misdemeanor penalties upon any person who fails to report an instance of dependent adult abuse which he or she knows, or reasonably should know, to exist, by requiring local agencies to receive required reports of adult abuse, and by extending the dependent adult abuse provisions up to January 1, 1990.

The bill would provide that neither the physician-patient privilege nor the psychotherapist-patient privilege applies to the information reported in any court proceeding or administrative hearing.

The bill would require both the State Department of Social Services, in consultation with specified entities, and the Department of Justice, in consultation with specified entities, to prepare minimum guidelines on specified matters relating to investigation of dependent adult abuse reports. Both agencies would be required to submit reports to the Joint Legislative Budget Committee by January 1, 1988, on the fiscal and programmatic impact of guidelines adopted by each agency. The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates which do not exceed \$500,000 statewide and other procedures for claims whose statewide costs exceed \$500,000.

This bill would provide that reimbursement for costs mandated by the bill shall be made pursuant to those statutory procedures and, if the statewide cost does not exceed \$500,000, shall be payable from the State Mandates Claims Fund.

This bill would take effect immediately as an urgency statute.

The people of the State of California do enact as follows:

SECTION 1. Section 15600 of the Welfare and Institutions Code is amended to read:

15600. (a) The Legislature recognizes that dependent adults may be subjected to abuse, neglect, or abandonment and that this state has a responsibility to protect such persons.

(b) The Legislature further recognizes that a significant number of these persons are elderly. The Legislature desires to direct special attention to the needs and problems of the elderly, recognizing that these persons constitute a significant and identifiable segment of the population and that they are more subject to risks of abuse, neglect, and abandonment.

(c) The Legislature further recognizes that a significant number of these persons have developmental disabilities and that mental and verbal limitations often leave them vulnerable to abuse and incapable of asking for help and protection.

(d) Most elders and dependent adults who are at the greatest risk of abuse, neglect, or abandonment by their family or caretakers suffer physical impairments and other poor health that place them in a dependent and vulnerable position.

(e) Factors which contribute to abuse, neglect, or abandonment of elders and dependent adults are economic instability of the family, resentment of caretaker responsibilities, stress on the caretaker, and abuse by the caretaker of drugs or alcohol.

(f) The Legislature declares that this state shall foster and promote community services for the economic, social, and personal well-being of its citizens in order to protect those persons described in this section.

(g) Uniform state guidelines which specify when county adult protective service agencies are to investigate allegations of abuse to elders and dependent adults and the appropriate role of local law enforcement do not currently exist and the implementation of these guidelines is necessary in order to ensure that a minimum level of protection is provided to elders and dependent adults in each county.

(h) Therefore, it is the intent of the Legislature in enacting this chapter to provide that, in those instances where a county has designated an elder or dependent adult abuse reporting agency, that agency shall receive referrals or complaints from public or private agencies, from any mandated reporter submitting reports pursuant to Section 9381 or 15630, or from any other source having reasonable cause to know that the welfare of an elder or dependent adult is endangered, and shall take such actions as are considered necessary to protect the elder or dependent adult and correct the situation and ensure the individual's safety.

SEC. 1.5. Section 15602 of the Welfare and Institutions Code is amended to read:

15602. This chapter shall remain in effect only until January 1, 1990, and on that date is repealed unless a later enacted statute,

which is chaptered before that date, deletes or extends that date.

SEC. 2. Section 15610 of the Welfare and Institutions Code is repealed.

SEC. 3. Section 15610 is added to the Welfare and Institutions Code, to read:

15610. As used in this chapter:

(a) "Dependent adult" means any person residing in this state, between the ages of 18 and 64, who has physical or mental limitations which restrict his or her ability to carry out normal activities or to protect his or her rights including, but not limited to, persons who have physical or developmental disabilities or whose physical or mental abilities have diminished because of age.

(b) "Physical abuse" means assault and battery, which means all of the following:

- (1) Assault, as defined in Section 240 of the Penal Code.
- (2) Battery, as defined in Section 242 of the Penal Code.
- (3) Assault with a deadly weapon or force likely to produce great bodily injury, as defined by Section 245 of the Penal Code.
- (4) Unreasonable physical constraint, or prolonged or continual deprivation of food or water.
- (5) Sexual assault, which means any of the following:
 - (A) Sexual battery, as defined in Section 243.4 of the Penal Code.
 - (B) Rape, as defined in Section 261 of the Penal Code.
 - (C) Rape in concert, as described in Section 264.1 of the Penal Code.

- (D) Incest, as defined in Section 285 of the Penal Code.
- (E) Sodomy, as defined in Section 286 of the Penal Code.
- (F) Oral copulation, as defined in Section 288a of the Penal Code.
- (G) Penetration of a genital or anal opening by a foreign object, as defined in Section 289 of the Penal Code.

(c) "Neglect" means the negligent failure of any person having the care or custody of a dependent adult to exercise that degree of care which a reasonable person in a like position would exercise. Neglect includes, but is not limited to all of the following:

- (1) Failure to assist in personal hygiene, or in the provision of food or clothing.
- (2) Failure to provide medical care for physical and mental health needs. No person shall be deemed neglected or abused for the sole reason that he or she voluntarily relies on treatment by spiritual means through prayer alone in lieu of medical treatment.
- (3) Failure to protect from health and safety hazards.
- (4) Failure to prevent malnutrition.

(d) "Abandonment" means the desertion or willful forsaking of a dependent adult by anyone having care or custody of that person under circumstances in which a reasonable person would continue to provide care and custody.

(e) "Fiduciary abuse" means a situation in which any person who has the care or custody of, or who stands in a position of trust to, a

dependent adult, takes, secretes, or appropriates their money or property, to any use or purpose not in the due and lawful execution of his or her trust.

(f) "Abuse of a dependent adult" means physical abuse, sexual abuse, neglect, intimidation, cruel punishment, fiduciary abuse, or other treatment with resulting physical harm or pain or mental suffering, or the deprivation by a care custodian of goods or services which are necessary to avoid physical harm or mental suffering.

(g) "Care custodian" means an administrator or an employee of any of the following public or private facilities:

- (1) Health facility.
- (2) clinic.
- (3) Home health agency.
- (4) Educational institution.
- (5) Sheltered workshop.
- (6) Camp.
- (7) Respite care facility.
- (8) Residential care institution, including foster homes and group homes.
- (9) Community care facility.
- (10) Adult day care facility, including adult day health care facilities.
- (11) Regional center for persons with developmental disabilities.
- (12) Licensing worker or evaluator.
- (13) Public assistance worker.
- (14) Adult protective services agency.
- (15) Patient's rights advocate.
- (16) Nursing home ombudsman.
- (17) Legal guardian or conservator.
- (18) Skilled nursing facility.
- (19) Intermediate care facility.
- (20) Local law enforcement agency.
- (21) Any other person who provides goods or services necessary to avoid physical harm or mental suffering and who performs duties.

(h) "Health practitioner" means a physician and surgeon, psychiatrist, psychologist, dentist, resident, intern, podiatrist, chiropractor, licensed nurse, dental hygienist, marriage, family, and child counselor, or any other person who is currently licensed under Division 2 (commencing with Section 500) of the Business and Professions Code, any emergency medical technician I or II, paramedic, a person certified pursuant to Division 2.5 (commencing with Section 1797) of the Health and Safety Code, a psychological assistant registered pursuant to Section 2913 of the Business and Professions Code, a marriage, family and child counselor trainee, as defined in subdivision (c) of Section 4980.03 of the Business and Professions Code, or an unlicensed marriage, family and child counselor intern registered under Section 4980.44 of the Business and Professions Code, state or county public health or social service

employee who treats a dependent adult for any condition, a coroner, or a religious practitioner who diagnoses, examines or treats dependent adults.

(i) "Adult protective services agency" means a county welfare or social services department.

(j) "Adult protective services" means those preventive and remedial activities performed on behalf of dependent adults who are unable to protect their own interests; harmed or threatened with harm; caused physical or mental injury due to the action or inaction of another person or their own action due to ignorance, illiteracy, incompetence, mental limitation or poor health; lacking in adequate food, shelter, or clothing; exploited of their income and resources; or deprived of entitlement due them.

(k) "Goods and services which are necessary to avoid physical harm or mental suffering" include, but are not limited to, all of the following:

(1) The provision of medical care for physical and mental health needs.

(2) Assistance in personal hygiene.

(3) Possessing adequate clothing.

(4) Adequately heated and ventilated shelter.

(5) Protection from health and safety hazards.

(6) Protection from malnutrition, under those circumstances where the results include, but are not limited to, malnutrition and deprivation of necessities or physical punishment.

(7) Transportation and assistance necessary to secure any of the needs set forth in paragraphs (1) to (6) above.

No person shall be deemed neglected or abused for the sole reason that he or she voluntarily relies on treatment by spiritual means through prayer alone in lieu of medical treatment.

(l) "Investigation" means that activity necessary to determine the validity of a report of elder or dependent adult abuse, neglect, or abandonment.

(m) "Nursing home ombudsman" means the long-term care ombudsman of the Department of Aging, the ombudsman coordinators of that department, and the persons acting in the capacity of regional ombudsman on behalf of approved organizations as described in Chapter 9 (commencing with Section 9700) of Division 8.5.

(n) "Developmentally disabled person" means a person with a developmental disability specified by or as described in subdivision (a) of Section 4512.

(o) "Mental suffering" means deliberately subjecting a person to fear, agitation, confusion, severe depression, or other forms of serious emotional distress, through threats, harassment, or other forms of intimidating behavior.

(p) "Patient's rights advocate" means a person who has no direct or indirect clinical or administrative responsibility for the patient,

and who shall be responsible for ensuring that laws, regulations, and policies on the rights of the patient are observed.

(q) "Local law enforcement agency" means a city police or county sheriff's department, or a county probation department.

SEC. 4. Section 15630 of the Welfare and Institutions Code is repealed.

SEC. 5. Section 15630 is added to the Welfare and Institutions Code, to read:

15630. (a) Any dependent adult care custodian, health practitioner, or employee of a county adult protective services agency or a local law enforcement agency, who in his or her professional capacity or within the scope of his or her employment, either has actual knowledge that a dependent adult has been the victim of physical abuse, or observes a physical injury to a dependent adult under circumstances that are consistent with physical abuse, where the dependent adult's statements, or in the case of persons who have developmental disabilities, their statements or other corroborating evidence, indicate that abuse has occurred, shall report the known or suspected instance of physical abuse to the county adult protective services agency, or a local law enforcement agency immediately or as soon as possible by telephone, and shall prepare and send a written report thereof within 36 hours.

(b) Any care custodian, health practitioner, or employee of an adult protective services agency or local law enforcement agency who has knowledge of or reasonably suspects that other types of dependent abuse have been inflicted upon a dependent adult or that his or her emotional well-being is endangered in any other way, may report such known or suspected instance of abuse to an adult protective services agency or local law enforcement agency.

(c) When two or more persons who are required to report are present and jointly have knowledge of a known or suspected instance of abuse of a dependent adult, and when there is agreement among them, the telephone report may be made by a member of the team selected by mutual agreement and a single report may be made and signed by the selected member of the reporting team. Any member who has knowledge that the member designated to report has failed to do so shall thereafter make the report.

(d) The reporting duties under this section are individual, and, no supervisor or administrator may impede or inhibit the reporting duties and no person making such a report shall be subject to any sanction for making the report. However, internal procedures to facilitate reporting and apprise supervisors and administrators of reports may be established, provided they are not inconsistent with the provisions of this chapter.

(e) An adult protective services agency shall immediately or as soon as practically possible report by telephone to the law enforcement agency having jurisdiction over the case and to any public agency given responsibility for investigation in that

jurisdiction of cases of dependent adult abuse, every known or suspected instance of dependent adult abuse. A county probation or welfare department shall also send a written report thereof within 36 hours of receiving the information concerning the incident to each agency to which it is required to make a telephone report under this subdivision.

A law enforcement agency shall immediately or as soon as practically possible report by telephone to the county welfare department and the agency given responsibility for the investigation of cases of dependent adult abuse every known or suspected instance of abuse of a dependent adult. A law enforcement agency shall also send a written report thereof within 36 hours of receiving the information concerning the incident to any agency to which it is required to make a telephone report under this subdivision.

SEC. 6. Section 15631 of the Welfare and Institutions Code is repealed.

SEC. 7. Section 15631 is added to the Welfare and Institutions Code, to read:

15631. (a) Any other person who knows, or reasonably suspects, that a dependent adult has been the victim of abuse may report that abuse to the county adult protective services agency or a local law enforcement agency.

(b) For the purposes of this section, "reasonable suspicion" means that it is objectively reasonable for a person to entertain such a suspicion, based upon facts that could cause a reasonable person in a like position, drawing when appropriate upon his or her training and experience, to suspect abuse.

SEC. 8. Section 15632 is added to the Welfare and Institutions Code, to read:

15632. (a) Any person who enters into employment on or after January 1, 1986, as a care custodian, health practitioner, or with an adult protective services agency or a local law enforcement agency, prior to commencing his or her employment and as a prerequisite to that employment, and any person who was employed prior to January 1, 1986, and continues to be employed after January 1, 1986, as a care custodian, health practitioner, or with an adult protective services agency or a local law enforcement agency, as a condition of continued employment, shall sign a statement on a form, which shall be provided by the prospective employer, to the effect that he or she has knowledge of the provisions of Section 15630 and will comply with its provisions.

(b) The statement shall be in the following form:

Section 15630 of the Welfare and Institutions Code requires any care custodian, health practitioner, or employee of an adult protective services agency or a local law enforcement agency who has knowledge of or observes a dependent adult in his or her professional capacity or within the scope of his or her employment who he or she knows has been the victim of physical abuse, or who

has injuries under circumstances which are consistent with abuse where the dependent adult's statements indicate, or in the case of a person with developmental disabilities, where his or her statements or other corroborating evidence indicates that abuse has occurred, to report the known or suspected instance of physical abuse to an adult protective services or a local law enforcement agency immediately or as soon as practically possible by telephone and to prepare and send a written report thereof within 36 hours of receiving the information concerning the incident.

"Care custodian" means an administrator or an employee of any of the following public or private facilities:

- (1) Health facility.
- (2) Clinic.
- (3) Home health agency.
- (4) Educational institution.
- (5) Sheltered workshop.
- (6) Camp.
- (7) Respite care facility.
- (8) Residential care institution, including foster homes and group homes.
- (9) Community care facility.
- (10) Adult day care facility, including adult day health care facilities.
- (11) Regional center for persons with developmental disabilities.
- (12) Licensing worker or evaluator.
- (13) Public assistance worker.
- (14) Adult protective services agency.
- (15) Patient's rights advocate.
- (16) Nursing home ombudsman.
- (17) Legal guardian or conservator.
- (18) Skilled nursing facility.
- (19) Intermediate care facility.
- (20) Local law enforcement agency.
- (21) Any other person who provides goods or services necessary to avoid physical harm or mental suffering and who performs duties.

"Health practitioner" means a physician and surgeon, psychiatrist, psychologist, dentist, resident, intern, podiatrist, chiropractor, licensed nurse, dental hygienist, marriage, family and child counselor or any other person who is currently licensed under Division 2 (commencing with Section 500) of the Business and Professions Code, any emergency medical technician I or II, paramedic, a person certified pursuant to Division 2.5 (commencing with Section 1797) of the Health and Safety Code, or a psychological assistant registered pursuant to Section 2913 of the Business and Professions Code, a marriage, family and child counselor trainee, as defined in subdivision (c) of Section 4980.03 of the Business and Professions Code, or an unlicensed marriage, family and child counselor intern registered under Section 4980.44 of the Business and Professions

Code, a state or county public health employee who treats a dependent adult for any condition, a coroner, or a religious practitioner who diagnoses, examines, or treats dependent adults.

(c) The signed statements shall be retained by the employer. The cost of printing, distribution, and filing of these statements shall be borne by the employer.

SEC. 9. Section 15633 is added to the Welfare and Institutions Code, to read:

15633. (a) A telephone report of a known or suspected instance of dependent adult abuse shall include the name of the person making the report, the name and age of the dependent adult, the present location of the dependent adult, the names and addresses of family members or any other person responsible for the dependent adult's care, if known, the nature and extent of the dependent adult's condition, and any other information, including information that led that person to suspect dependent adult abuse requested by the adult protective services agency.

(b) The written reports required for the reporting procedures, as defined in this chapter, shall be submitted on forms adopted by the department after consultation with representatives of the various law enforcement agencies, professional medical and nursing agencies, hospital associations, the Department of Aging, the State Department of Developmental Services, the State Department of Education, and the county probation or welfare departments. These forms shall be distributed by the county adult protective services agencies.

(c) Information relevant to the incident of dependent adult abuse may also be given to an investigator from an adult protective services agency or a local law enforcement agency who is investigating the known or suspected case of dependent adult abuse.

(d) The identity of all persons who report under this chapter shall be confidential and disclosed only between adult protective services agencies or local law enforcement agencies, or to counsel representing an adult protective services or a local law enforcement agency, to the district attorney in a criminal prosecution, or when persons reporting waive confidentiality, or by court order.

(e) Notwithstanding subdivision (a), persons who may report pursuant to Section 15631 are not required to include their names.

SEC. 10. Section 15633.5 is added to the Welfare and Institutions Code, to read:

15633.5. (a) The reports required by Section 15630 shall be confidential and may be disclosed only as provided in subdivision

(b). Any violation of the confidentiality required by this chapter is a misdemeanor punishable by not more than six months in the county jail, by a fine of five hundred dollars (\$500), or by both that fine and imprisonment.

(b) Reports of suspected dependent adult abuse and information contained therein may be disclosed only to the following:

(1) Persons or agencies to whom disclosure of the identity of the reporting party is permitted under Section 15633.

(2) Persons or agencies to whom disclosure of information is permitted under subdivision (b) of Section 15635.

(3) Persons or agencies with whom investigations of abuse of dependent adults are coordinated under regulations promulgated under Section 15640.

(c) This section shall not be interpreted to allow disclosure of any reports or records relevant to the reports of dependent adult abuse if the disclosure would be prohibited by any other provisions of state or federal law applicable to the reports or records relevant to the reports of the abuse.

SEC. 11. Section 15634 is added to the Welfare and Institutions Code, to read:

15634. (a) No care custodian, health practitioner or employee of an adult protective service agency or a local law enforcement agency who reports a known or suspected instance of dependent adult abuse shall be civilly or criminally liable for any report required or authorized by this article. Any other person reporting a known or suspected instance of dependent adult abuse shall not incur civil or criminal liability as a result of any report authorized by this article, unless it can be proven that a false report was made and the person knew that the report was false. No person required to make a report pursuant to this article, or any person taking photographs at his or her discretion, shall incur any civil or criminal liability for taking photographs of a suspected victim of dependent adult abuse or causing photographs to be taken of such a suspected victim or for disseminating the photographs with the reports required by this article. However, the provisions of this section shall not be construed to grant immunity from this liability with respect to any other use of the photographs.

(b) Any care custodian, health practitioner, or employee of an adult protective services agency or a local law enforcement agency who, pursuant to a request from an adult protective services agency or a local law enforcement agency, provides the requesting agency with access to the victim of a known or suspected instance of dependent adult abuse shall not incur civil or criminal liability as a result of providing that access.

(c) The Legislature finds that, even though it has provided immunity from liability to persons required to report dependent adult abuse, that immunity does not eliminate the possibility that actions may be brought against those persons based upon required reports of abuse. In order to further limit the financial hardship that those persons may incur as a result of fulfilling their legal responsibilities, it is necessary that they not be unfairly burdened by legal fees incurred in defending those actions. Therefore, a care custodian, health practitioner, or an employee of an adult protective services agency or a local law enforcement agency may present a

claim to the State Board of Control for reasonable attorneys' fees incurred in any action against that person on the basis of making a report required or authorized by this article if the court has dismissed the action upon a demurrer or motion for summary judgment made by that person, or if he or she prevails in the action. The State Board of Control shall allow that claim if the requirements of this subdivision are met, and the claim shall be paid from an appropriation to be made for that purpose. Attorneys' fees awarded pursuant to this section shall not exceed an hourly rate greater than the rate charged by the Attorney General at the time the award is made and shall not exceed an aggregate amount of fifty thousand dollars (\$50,000). This subdivision shall not apply if a public entity has provided for the defense of the action pursuant to Section 995 of the Government Code.

(d) Any person who fails to report an instance of dependent adult abuse which he or she knows to exist or reasonably should know to exist, as required by this article, is guilty of a misdemeanor and shall be punished by imprisonment in the county jail not exceeding six months, by a fine of not exceeding one thousand dollars (\$1,000), or by both that fine and imprisonment.

SEC. 12. Section 15635 is added to the Welfare and Institutions Code, to read:

15635. (a) The county board of supervisors may designate a voluntary or private nonprofit community agency to receive reports filed pursuant to this article.

(b) Each county adult protective services agency or designated control agency shall maintain an inventory of all public and private service agencies available to assist victims of abuse, as defined by Section 15610. This inventory shall be used to refer victims in the event that the county adult protective services agency cannot resolve the immediate needs of the victim, and to serve the victim on a long-term, followup basis. The intent of this section is to acknowledge that limited funds are available to resolve all suspected cases of abuse reported to a county adult protective services agency.

(c) Counties are encouraged to establish a formal agreement with the local long-term care ombudsman programs designated by the Department of Aging to help resolve suspected cases of abuse occurring in an institutional setting.

SEC. 13. Section 15637 is added to the Welfare and Institutions Code, to read:

15637. In any court proceeding or administrative hearing, neither the physician-patient privilege nor the psychotherapist-patient privilege applies to the specific information required to be reported pursuant to this chapter. Nothing in this chapter shall be interpreted as requiring an attorney to violate his or her oath and duties pursuant to Section 6067 or subdivision (e) of Section 6068 of the Business and Professions Code, and Article 3 (commencing with Section 950) of Chapter 4 of Division 8 of the

Evidence Code.

SEC. 14. Section 15640 is added to the Welfare and Institutions Code, to read:

15640. (a) The department, in cooperation with representatives of county government, and in consultation with the State Department of Education, the State Department of Developmental Services, and the Department of Justice, shall establish minimum guidelines for determining when an investigation of an allegation of abuse is warranted. The department shall report to the Joint Legislative Budget Committee by January 1, 1988, on the fiscal and programmatic impact of these guidelines on county adult protective service agencies.

(b) The Department of Justice, in consultation with the department, the State Department of Education, the State Department of Developmental Services, and representatives of local law enforcement and county adult protective service agencies shall develop uniform guidelines for local law enforcement assistance with investigations of allegations of abuse to elderly persons and dependent adults conducted by county adult protective service agencies. Consistent with these guidelines, county adult protective service agencies may seek local law enforcement assistance with investigations of allegations of abuse to elders and dependent adults. The Department of Justice shall report to the Joint Legislative Budget Committee by January 1, 1988, on the fiscal and programmatic impact of these guidelines on local law enforcement agencies.

SEC. 15. Reimbursement to local agencies and school districts for costs mandated by the state pursuant to this act shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code and, if the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars (\$500,000), shall be made from the State Mandates Claims Fund.

SEC. 16. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to provide for reporting of dependent adult abuse at the earliest possible time, it is necessary that this act take effect immediately.

O